

The rule that governs restriction in this case is PCT Rule 13.1:

13.1 : The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention.")

PCT Rule 13.2 describes the circumstances in which the requirement of Unity of

Invention is to be considered fulfilled:

13.2: Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

Therefore, the issue is whether there is a **special technical feature** that links the inventions of Groups I-IV.

The examiner argues that the inventions listed as Groups 1-IV lack the same corresponding special technical features because "DNA sequences encoding an HPPD enzyme that would hybridize to SEQ ID NO: 1 were known in the art prior to the invention... In addition, because the transformed plant of Group I has elevated vitamin E content and the transformed plant of Group IV has herbicide resistance, there is not a single general inventive concept as required under PCT Rule 13.1." (5/8/01, Office communication, page 2, last paragraph)

Applicants respond by pointing out according to PCT Rule 13.2 only **ONE** or more special technical feature must exist. Even if the examiner's arguments are accepted, a different special technical feature than the ones stated by the examiner


exists. The special technical feature common in Groups I-IV is the inventions' reliance on overexpression of an HPPD gene in the plants. This unexpected result of the present invention when considered "as a whole" represents advancement over the prior art.

Therefore, applicants request that restriction under 35 U.S.C. §§ 121 and 372 be withdrawn.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such account.

Respectfully submitted,

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